



# UNITED STATES PATENT AND TRADEMARK OFFICE

1.8w  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,807	12/26/2001	Michael S. H. Chu	81745	6255

23685 7590 12/01/2004  
KRIEGSMAN & KRIEGSMAN  
665 FRANKLIN STREET  
FRAMINGHAM, MA 01702

EXAMINER

KENNEDY, SHARON E

ART UNIT	PAPER NUMBER
----------	--------------

3762

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/037,807

Applicant(s)

CHU ET AL.

Examiner

Sharon Kennedy

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on September 20, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 4, 12, 16, 29, 32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, 13-15, 17-28, 30, 31 and 34-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

#### ***Election/Restrictions***

Claims 4, 12, 16, 29, 32, 33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 20, 2004.

#### ***Claim Rejections - 35 USC § 102***

Claims 1-3, 5-10, 17-24, 27, 28, 30, 31, 34, 35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kelliher et al., US 5,836,924. Kelliher discloses a rotational feeding tube apparatus. See especially figures 1 and 5, showing the rotational valve. Regarding claims 7-10, although Kelliher is not intended for supporting a medical catheter, nothing in the claim structurally distinguishes for Kelliher. This interpretation is required by the MPEP. See MPEP 2114, which states that apparatus must be distinguished from the prior art in terms of structure rather than function. It is readily apparent that a medical catheter can be connected to the distal end opening 42. Regarding claim 10, the securing means can be a friction fit, which is shown by Kelliher.

***Claim Rejections - 35 USC § 103***

Claims 11, 13-15, 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelliher '924 as applied to claim 10 above, and further in view of Delegge, WO 02/13901. Kelliher discloses all of the claimed embodiments except for the ring-shaped member to secure the medical catheter. Kelliher discloses a one-piece bolster/valve apparatus with the bolster (Kelliher balloon 48) integrally connected to the valve. 12. Applicant calls for a two-piece apparatus using a ring-shaped member to connect the bolster. Delegge exemplifies that ring-shaped securing members are well known in two-piece apparatuses. In addition, the examiner points out that ring-shaped securing nuts as illustrated by applicant are the most common method of attaching shut off valve members in plumbing tubes and have been around for ages. Accordingly, it would be obvious to one of ordinary skill in the art to attach a ring shaped member to make the Delegge apparatus separable instead of integral. In addition, it is well established that making a device separable as opposed to integral is *prima facie* obvious. See MPEP 2144.04 V.C., entitled "Making Separable." Regarding the claimed step increases for the outer diameter of the lower portion, it appears that Delegge discloses these features for optimally attaching the ring securement device.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelliher '924 as applied to claim 5 above, and further in view of Shmulewitz et al., US 6,569,145. Kelliher discloses all of the claimed embodiments except for the window 53 to permit viewing of the valve position. Shmulewitz discloses that it is known to use a window 60 to show the position of a valve structure. See figures 5A, 5B, and column

Art Unit: 3762

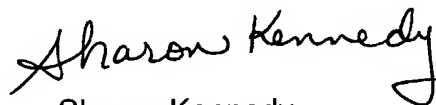
7, line 8 of Shmulewitz. Accordingly, it would be obvious to one of ordinary skill in the art to attach a window to the Kelliher apparatus so that it would be visually apparent if the valve were open or closed as shown by Shmulewitz, for the purpose of confirming the valve position.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571/272-4955.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon Kennedy  
Primary Examiner  
Art Unit 3762

Sek